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Order 2000-2-8



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
on the 10th day of November, 1999

In the matter of the fitness determination of

SOUTHERN AIR, INC.

as a certificated air carrier under 49 U.S.C. 41102

Served: February 4, 2000

Docket OST-99-5670 - 21

In the matter of the application of

SOUTHERN AIR, INC.

for an exemption pursuant to 49 U.S.C. 40109 to provide
foreign charter all-cargo air transportation

Docket OST 99-6591 - 2

In the matter of the cancellation of the foreign air
carrier certificates issued to

SOUTHERN AIR TRANSPORT, INC.

for dormancy under section 204.7 of the Department's
Regulations

Dockets 30883, 30789 and
49043

**ORDER CONFIRMING ORAL ACTIONS,
REISSUING EFFECTIVE CERTIFICATES
AND CANCELLING CERTIFICATES**

By Order 99-11-17, served November 26, 1999, the Department found Southern Air, Inc. (Southern) fit and issued it a certificate under 49 U.S.C. 41102 authorizing it to provide

interstate charter all-cargo air transportation.¹ That certificate stated that the authority granted would become effective on the sixth (business) day after the Department's receipt of (1) a copy of Southern's Federal Aviation Administration (FAA) Air Carrier Certificate and Operations Specifications authorizing such operations; (2) updated financial information and a statement of changes the carrier may have undergone in areas affecting its fitness since issuance of the show cause order in this proceeding (Order 99-11-6, issued November 10, 1999); and (3) evidence of insurance coverage meeting the requirements of section 205.5(b) of our rules.

On December 1, 1999, Southern submitted a statement of changes, updated financial information, a revised list of pre-operating expenses already paid and those remaining to be paid, along with evidence of insurance. At the same time, Southern requested that we waive the six-day waiting period provided for in Order 99-11-17 and make its interstate authority effective immediately upon receipt of its FAA authority.

According to Southern, the company had undergone no substantial changes in fitness-related areas since the issuance of Show Cause Order 99-11-6. The carrier stated that there were no outstanding pre-operating expenses remaining to be paid and provided evidence that it has over \$5.8 million in available funding, an amount sufficient to meet our financial fitness test.

On December 2, 1999, Southern filed an application for an exemption to allow it to engage in foreign charter air transportation for a period of sixty days or until the issuance of its foreign charter all-cargo certificate.

On December 3, Southern submitted a copy of its FAA Air Carrier Certificate and Operations Specifications authorizing the interstate and foreign all-cargo operations proposed.

Since Southern had met the conditions for effectiveness of its authority, we concluded that there was no reason not to grant the carrier the waiver it requested and make its interstate certificate effective immediately. We also concluded that grant of Southern's request for an exemption to enable it to begin foreign charter all-cargo service pending Presidential review of its foreign certificate was consistent with Department precedent and the public interest. On December 3, we orally advised Southern that we were granting a waiver of the six-day review period and its exemption application to begin foreign charter cargo service. On January 18, 2000, we received notification that the President did not intend to disapprove the Department's order finding Southern fit to engage in foreign charter all-cargo air transportation and cancelling the various foreign certificates issued to Southern Air Transport. We confirm our oral actions here and will reissue Southern's interstate and

¹ Order 99-11-17 also found Southern fit to provide foreign charter cargo air transportation and proposed to cancel certain foreign certificates issued to Southern Air Transport, Inc. subject to Presidential review under 49 U.S.C. 41307.

foreign certificates to reflect their effective dates and cancel Southern Air Transport's certificates.

ACCORDINGLY, Acting under authority assigned by the Department in its Regulations, 14 CFR 385.12:

1. We confirm our oral action of December 3, 1999, granting Southern Air, Inc., a waiver from the six-day waiting period and making its section 41102 certificate authority to engage in interstate charter air transportation of property and mail effective on that same date, and reissue the certificate in the attached form to reflect its effective date.
2. We confirm our oral action of December 3, 1999, granting Southern Air, Inc., an exemption under section 40109(c) to engage in foreign charter air transportation pending Presidential approval of its foreign charter certificate.
3. We reissue to Southern Air, Inc., the foreign charter cargo section 41102 certificate issued to it by Order 99-11-6 in the attached form to reflect its effective date.
4. We cancel the certificates of public convenience and necessity issued to Southern Air Transport, Inc., by Orders 80-1-87 (Docket 30883), 80-9-106 (Docket 30789) and 95-1-6 (Docket 49043).
5. We direct that, should Southern Air, Inc., propose to operate more than two aircraft, it must notify the Department in writing at least 45 days in advance and demonstrate its fitness for such operations prior to placing additional aircraft into service.
6. We direct Southern Air, Inc., to submit to the Air Carrier Fitness Division a first-year progress report within 45 days following the end of its first year of actual flight operations.²
7. We will serve a copy of this order on the persons listed in Attachment A.

Persons entitled to petition the Department for review of this order under the Department's Regulations, 14 CFR 385.30, may file their petitions within 10 days of the service date of this order.

² The report should include a description of the carrier's current operations (number and type of aircraft and principal markets served), a summary of how these operations have changed during the year, a discussion of any changes it anticipates from its current operations during its second year, current financial statements and a listing of current senior management and key technical personnel. The carrier should also be prepared to meet with staff members of the Air Carrier Fitness Division to discuss its current and future operations.

The actions confirmed in this order were effective when taken and the filing of a petition for review shall not alter their effectiveness.

By:

RANDALL BENNETT
Acting Director
Office of Aviation Analysis

(SEAL)

*An electronic version of this document is available on the World Wide Web at
[http://dms.dot.gov/reports/reports_aviation .asp](http://dms.dot.gov/reports/reports_aviation.asp)*



**Certificate of Public Convenience and Necessity
for
Interstate Charter Air Transportation**

This Certifies That

SOUTHERN AIR, INC.

is authorized, subject to the provisions of Subtitle VII of Title 49 of the United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in interstate charter air transportation of property and mail.

This Certificate is not transferable without the approval of the Department of Transportation.

By Direction of the Secretary

*Issued by Order 99-11-17
On November 26, 1999
Effective on December 3, 1999*

*Randall Bennett
Acting Director
Office of Aviation Analysis*

**As reissued by
Order 99-11-17*

Attachment



Terms, Conditions, and Limitations

SOUTHERN AIR, INC.

is authorized to engage in interstate charter air transportation of property and mail between any point in any State, territory, or possession of the United States or the District of Columbia, and any other point in any of those entities.

This authority is subject to the following provisions:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.*
- (2) The holder is not authorized to carry passengers (other than cargo attendants accompanying freight shipments).*
- (3) The holder's authority under this certificate is effective only to the extent that such operations are also authorized by the Federal Aviation Administration.*
- (4) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).*
- (5) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of Title 49 of the United States Code or the Department's regulations shall be sufficient grounds to revoke this certificate.*
- (6) The holder is not authorized to engage in air transportation operations between points within the State of Alaska.*

**This certificate is being reissued to reflect its effective date.*

(7) *Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(l)), it must first comply with the requirements of 14 CFR 204.5.*

(8) *In the event that the holder ceases all operations for which it was found "fit, willing, and able," its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.*



**Certificate of Public Convenience and Necessity
for
Foreign Charter Air Transportation**

This Certifies That

SOUTHERN AIR, INC.

is authorized, subject to the provisions of Subtitle VII of Title 49 of the United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign charter air transportation of property and mail.

This Certificate is not transferable without the approval of the Department of Transportation.

By Direction of the Secretary

Issued by Order 2000-2-8

On November 10, 1999

Effective on January 18, 2000

Randall Bennett

Acting Director

Office of Aviation Analysis

Attachment



Terms, Conditions, and Limitations

SOUTHERN AIR, INC.

is authorized to engage in foreign charter air transportation of property and mail:

Between any place in the United States and any place outside thereof.

This authority is subject to the following provisions:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.*
- (2) The holder is not authorized to carry passengers (other than cargo attendants accompanying freight shipments).*
- (3) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any orders of the Department of Transportation issued under them or for the purpose of requiring compliance with them.*
- (4) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.*
- (5) The holder's authority under this certificate is effective only to the extent that such operations are also authorized by the Federal Aviation Administration.*
- (6) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).*

**This certificate is being reissued to reflect its effective date.*

(7) *The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of Title 49 of the United States Code or the Department's regulations shall be sufficient grounds to revoke this certificate.*

(8) *Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(l)), it must first comply with the requirements of 14 CFR 204.5.*

(9) *In the event that the holder ceases all operations for which it was found "fit, willing, and able," its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.*

ATTACHMENT A

SERVICE LIST FOR SOUTHERN AIR, INC.

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